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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,838	06/21/2005	Walter Hurler	LORWER P38AUS	8916
20210 7590 12/24/2008 DAVIS & BUJOLD, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301				
EXAMINER				
UNDERWOOD, DONALD W				
ART UNIT		PAPER NUMBER		
3652				
MAIL DATE		DELIVERY MODE		
12/24/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/534,838

**Applicant(s)**

HURLER, WALTER

**Examiner**

Donald Underwood

**Art Unit**

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 August 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23, 24 and 26-44 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 23, 24 and 26-44 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 08/28/08 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

The drawing changes filed 08/28/08 have been approved.

The meaning of the abbreviation ca. in paragraph 008 is unclear. Clarification is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 23, 24 and 26-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 23, this claim is indefinite. This indefiniteness is caused by the use of "(7, 8, 9)" bridging lines 8 and 9 and the phrase "capable of being raised and lowered behind at least one rear axle (3)" in line 9. Each loading box or loading surface 7, 8 and 9 is not capable of being raised and lowered behind the rear axle. Only loading surface 9 is raised and lowered behind the rear axle. Thus the phrase in line 9 renders the claim indefinite since it indicates all loading boxes or loading surfaces are behind the rear axle. Also the vertically movable loading boxes or loading surfaces replace conventional loading ramps. See the specification, paragraph 013. Thus the phrase "a loading ramp" in line 4 also renders the claim indefinite.

The following changes would correct the inaccuracies in claim 23. The phrase "a loading ramp" in line 4 should be changed to --one of the loading boxes or loading surfaces--; --behind the rear axle-- should be inserted after "frame" in line 5 and --each of-- should be inserted after "of also in line 5; the phrase "capable of being raised and

lowered behind the at least one rear axle (3)," in line 9 should be deleted and 'are should be changed to --is--; and "in a region of the loading ramp" in line 15 should be deleted. Also the phrase "capable of being raised and lowered" bridging lines 2 and 3 should be deleted since the claim addresses raising and lowering in lines 5 and 6.

Regarding claim 27, --the-- should be inserted after "of", second occurrence, in line 2; --part of the-- should be inserted after "one" in line 3 and --behind the rear axle-- should be inserted at the end of line 3.

Regarding claim 28, in line 2 "of the vehicle" should be inserted after "sides" and --at least one part of the-- should be inserted after "the", second occurrence, and in line 3 --behind the rear axle-- should be inserted after "lowered".

Regarding claim 30, "capable of being raised and lowered" in line 3 should be deleted; "a loading ramp" in line 4 should be changed to --one of the loading boxes or loading surfaces--; in line 5 --behind the rear axle-- should be inserted after "frame" and --each of-- inserted after "of"; --part of the-- should be inserted after "one" in line 8; --the at least one part of the-- should be inserted after "area of" in line 17; and --behind the rear axle-- should be inserted after "lowered" in line 18.

Regarding claim 35, --on the C-pillar should be inserted after "(11)" and after "rails", both in line 2.

Regarding claims 36 and 37, these claims fail to correlate the enclosing wall sections with the other claimed elements to provide movement to a lowered state. The enclosing wall section in each claim should be positively connected to the at least one part of the loading box or loading surface that is capable of being raised and

lowered behind the rear axle to provide an operative device. Also "the one or more sliding doors" bridging lines 2 and 3 in claim 36 should be changed to --each sliding door--.

Regarding claim 38, "the internal loading ramp" is misleading. Each loading box or loading surface forms an internal loading ramp. It appears "the internal load ramp" in line 6 should be --the loading box or loading surface situated in a rear area of the vehicle behind the rear axle-- and "a lifting" also in line 6 should be --the lifting--.

Regarding claim 39, a phrase similar to --situated in a rear area of the vehicle frame behind the rear axle-- should be inserted in place of "(9)" in the penultimate line.

Regarding claim 41, "is" in line 5 should be deleted, "the" first word in line 6 should be deleted and "the internal loading ramp together with" in lines 8 and 9 should be deleted.

Claims 23, 24, 26-28 and 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Page in view of German reference 82 34 715 and French reference 1554461.

It would have been obvious to provide the side areas in Page with loading boxes similar to that in the rear area to provide for easier side loading in view of the teaching in the German reference (figures 1 and 3).

It would also have been obvious to provide roller doors on the rear and sides of Page in view of the teaching in the French reference to protect the load. Note the doors in the French reference.

Regarding claims 31-35, the side doors in the French reference slide into horizontal guide rails on the roof. An artisan would have provided similar guide rails in Page if adding doors as in the French reference.

Note Page contains transfer rails between rear rails 7 which support rear cylinders 8.

Claims 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Page in view of German reference 82 34 715 and French reference 1554461 as applied to claim 27 above, and further in view of Kiehl, et al. as applied and for the reasons set forth in the Office action mailed 03/26/08.

Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Page in view of German reference 82 34 715, French reference 1554461 as applied to claim 41 above, and further in view of Brown as applied and for the reasons set forth in the Office action mailed 03/26/08.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Page in view of German reference 82 34 715 as applied to claim 23 above, and further in view of Wall.

Whether one used the lift arrangement as in the German reference on the front loading boxes in Page as modified by the German reference or used lifts attached to the vertical pillars as in Wall would have been an obvious matter of design and/or choice since one arrangements would provide no unobvious result over the other. See Wall the unlabeled cable and elements 18, 18, 20 and 21.

Claim 29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 30 would be allowed if amended as set forth in the 112 rejection above.

Newly cited Yocum discloses rear loading surfaces arranged as in applicant's figure 5.

Applicant's arguments have been carefully considered but are not deemed persuasive. As set forth in the above 112 rejection it is unclear whether claim 23 is claiming two lifts with one of them behind the rear wheels and one in front of the rear wheels or two lifts behind the rear wheels. While claim 23 appears to be claiming the former in view of the use of numerals 7, 8 and 9 in the claim and the above rejections assumed that to be the case, Page in view of German reference 82 34 715 renders the former arrangement obvious and the German reference alone discloses the latter arrangement. Issues having been reached the following action is deemed appropriate. However, if applicant's representative has any questions or concerns he should contact the examiner.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Underwood whose telephone number is 571-272-6933. The examiner can normally be reached on Mon-Thursday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Donald Underwood/  
Primary Examiner, Art Unit 3652